

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center.](#)

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 29, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

PEGGY BUSKILL, et al.

v.

CASE NO. PUE000172

PELHAM MANOR WATER SUPPLY
COMPANY, INC.,
Defendant

FINAL ORDER

By letter dated February 15, 2000, Pelham Manor Water Supply Company, Inc. ("Pelham Manor" or the "Company"), notified its customers, pursuant to the Small Water or Sewer Public Utility Act (§56-265.13:1 et seq. of the Code of Virginia ("Code")), of its intent to increase its charges for water service effective April 1, 2000. Pelham Manor proposed to increase monthly rates for occupied residences rates from \$21.00 to \$26.00, and for vacant residences from \$15.00 to \$20.00.

Approximately 65% of the Company's 73 customers signed a petition filed with the Commission's Division of Energy Regulation objecting to the proposed rate increase. Pursuant to § 56-265.13:6 of the Code, the Commission issued a Preliminary Order on April 6, 2000 suspending Pelham Manor's proposed rates for 60 days and declaring the proposed rates interim and subject

to refund, with interest, following the period of suspension. The Preliminary Order further directed the Company to file certain supporting financial data on or before May 1, 2000, based on the Company's proposed 1999 test year.¹

On June 23, 2000, the Commission issued an Order for Notice and Hearing that set the matter for hearing on October 3, 2000, assigned a Hearing Examiner, and established a procedural schedule. The Commission directed Staff to investigate the reasonableness of the Company's proposed tariff and present its finding and recommendations in prepared testimony and exhibits.²

The hearing was convened on October 3, 2000, and was conducted by Howard P. Anderson, Jr., with C. Meade Browder, Jr., Esquire, appearing as counsel on behalf of Staff, and David K. Travers, President of Pelham Manor, appearing pro se. There were no protestants and no one appeared to speak as a public witness. Pelham Manor had not filed proof of notice and service on the Company's customers and local officials as required by the Commission's June 23, 2000, Order. Mr. Travers testified at the hearing that he personally delivered notices to each customer and to the county administrator.

¹ On May 12, 2000, the Commission granted a Company request, filed May 2, 2000, for an extension to May 17, 2000, to file its financial information.

² This Order also permitted Pelham Manor to implement its proposed rate increase for service effective April 1, 2000, on an interim basis and subject to refund. The Company had rendered bills for service at the proposed higher rates prior to the Commission's April 6, 2000 Preliminary Order.

Pelham Manor did not prefile testimony. The Staff presented the prefiled testimony of Ashley W. Armistead, Jr., for the Commission's Division of Public Utility Accounting, and Marc A. Tufaro for the Division of Energy Regulation. As a result of its investigation, Staff concluded that the Company's proposed rates are just and reasonable. Mr. Armistead made the following accounting adjustments and recommendations:

- Annualized the Company's revenues based on the number of connected customers at the end of the test year, increasing revenues by \$696.00.
- Annualized certain expenses that Pelham Manor did not reflect on its books and prorated a portion of these expenses to the Company, increasing expenses by \$339.00.
- Eliminated electric expense attributable to another water company, decreasing cost of service by \$55.00.
- Assigned a pro rata portion of annual automobile insurance premium to Pelham Manor, reducing insurance expense by \$36.00.
- Reduced the management fee expense by \$590.00.
- Eliminated all meals expenses of \$102.00.
- Amortized rate case expenses of \$5,380.00 over three years, increasing cost of service by \$1,793.00.
- Increased depreciation expense by \$251.00, and recommended that the Company depreciate plant at a three percent composite rate and restate plant in service and accumulated depreciation to the proper level as of December 31, 1999.
- Annualized gross receipts and special taxes to \$389.00, increasing expenses by \$3.00.

- Disallowed certain costs associated with items determined to be improvements in Mr. Traver's private residence.
- Recommended the Commission order the Company to maintain sufficient documentation to support all capital improvements and labor costs.
- Recommended the Commission order the Company file outstanding annual financial and operating reports.
- Recommended the Commission order the Company to apply any funds remaining after operating expenses to improve the water system to comply with Virginia Department of Health standards.

The Staff's testimony reveals that Pelham Manor's proposed rates would produce annual operating revenues of \$23,016, providing net income for of \$6,591. Mr. Tufaro testified that the proposed flat rates of \$26.00 for an occupied residence customer and \$20.00 for a vacant residence customer is reasonable, and recommended their approval. Mr. Tufaro also noted that the customer petition filed in response to the rate increase notice stated that no capital improvements have been made to the water system other than a replacement pump for one of the wells. Mr. Tufaro explained that this statement is correct, but that the Company has also invested in excess of \$12,000 in engineering and survey fees in an effort to upgrade the level of service provided to customers. Mr. Tufaro suggested that the Company make a better effort to inform its customers of major capital improvements so that customers are aware of the impact on rates.

On January 10, 2001, the Hearing Examiner issued his Report. The Hearing Examiner recommended that the Commission enter an order adopting his findings as outlined below, granting the Company an increase in gross annual revenues of \$4,440.00, and dismissing this matter from the Commission's docket of active cases. The Hearing Examiner noted that Pelham Manor's customers' petition stated that with the exception of a replacement pump for one of the wells, no other capital improvements have been made. He further noted that in excess of \$12,000.00 in engineering and survey fees have been expended in an effort to upgrade the level of service provided. The Hearing Examiner recommended that, since customers are largely unaware of this investment, this indicates that the Company should make a better effort to communicate with its customers.

The Hearing Examiner's findings are as follows:

- (1) The test year ending December 31, 1999 is proper in this proceeding;
- (2) Staff's accounting adjustments and recommendations are just and reasonable and should be adopted;
- (3) The Company's proposed rates should be approved;
- (4) The Company's test year operating revenues, after all adjustments, were \$18,576.00;
- (5) After the proposed increase of \$4,440.00, the Company should have operating revenues of \$23,016.00;
- (6) The Company's test year operating revenue deductions, after all adjustments, were \$16,333.00;

- (7) The Company's test year operating income, after all adjustments, was \$2,243.00;
- (8) The proposed increase should afford the Company an annual operating income of \$6,589.00;
- (9) The Company's rate base, after all adjustments, is \$23,928.00;
- (10) The Company requires additional gross annual revenues of \$4,440.00 to earn a return on rate base of 27.54%; and
- (11) The Company's books should conform to the Uniform System of Accounts for Class C Water Companies.

On February 9, 2001, Pelham Manor filed a response to the Hearing Examiner's Report. The Company indicates that the water system is deteriorating and will require additional investment. The Company argues that evidence presented at the hearing indicates that its requested rate increase is not enough, and further argues that it is difficult to proceed with improvements without funds. Pelham Manor expresses frustration with its understanding of the criteria the Commission uses to determine rates. The Company states that it cannot make investments in the system unless Staff works with the Company to show it how it can recover the investment.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report and the comments filed thereto, is of the opinion that the Hearing Examiner's findings and recommendations should be adopted.

In regard to Pelham Manor's concern that the Company does not have adequate capital with which to make improvements to the water system, we note that Staff and the Hearing Examiner have recommended approval of the full rate increase that Pelham Manor requested. Our June 23, 2000, Order provided for notice to the Company's customers of a hearing on the proposed change in water rates. This notice alerted customers that rates ultimately approved for each class of service could be higher or lower than those proposed by the Company, but that the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates. In the current proceeding, therefore, a rate increase can only be implemented in an amount generating additional revenues not exceeding the amount requested by Pelham Manor in its application and noticed to its customers. This limitation on the amount of any rate increase is implicit in the notice requirements of the Code and consistent with fundamental principles of due process. Pelham Manor implemented this latest increase to its rates, subject to refund with interest, on April 1, 2000. Pursuant to §§ 56-265.13:5 and 265.13:6 of the Code, the Company could at anytime on and after April 1, 2001, and upon proper notice to its customers and the Commission, seek additional rate relief.

Mr. Tufaro testified at the hearing that the Pelham Manor is an older water system and needs considerable attention. We

recognize that the Company is making an effort to provide the attention and additional funds needed for system improvements. We will direct Staff to work with Pelham Manor to assist the Company in better understanding rate proceedings before the Commission, including the constraints of applicable statutes and regulations, so as to aide the Company and its customers to ensure that the system receives the proper attention it requires. The Commission does, however, expect Pelham Manor to abide by our directives, both in this case as well as in our November 19, 1998, Final Order in the Company's last case, Case No. PUE960129, to implement the accounting and recordkeeping recommendations proposed by the Staff. This includes, but is not limited to: filing Annual Financial and Operating Reports with the Division of Public Utility Accounting; maintaining the Company's books in conformity with the Uniform System of Accounts for Class C Water Companies; depreciating all plant in service using a 3 percent composite rate, and restating plant in service and accumulated depreciation to the proper levels as of December 31, 1999; and maintaining sufficient property records and documentation, including labor costs, to support all capital improvements.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of the Hearing Examiner's January 10, 2001, Report are hereby adopted.

(2) Pursuant to the Small Water or Sewer Public Utility Act (§ 56-265.13:1 et seq. of the Code), Pelham Manor may implement on a permanent basis its proposed monthly rates of \$26.00 (occupied residences) and \$20.00 (vacant residences) for water service, which have been in effect on an interim basis since April 1, 2000.

(3) The Company shall implement the Staff's accounting and recordkeeping recommendations.

(4) The Commission's Staff shall work with Pelham Manor to assist the Company in better understanding rate proceedings before the Commission, including applicable statutes and regulations, in order to ensure that the water system receives the proper attention it requires.

(5) There being nothing further to come before the Commission, this case shall be removed from the docket and the papers transferred to the file for ended causes.